

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

EUNICE L. VARNER,

Plaintiff,

Case No. 07-10211

v.

Honorable John Corbett O'Meara

R. JAMES NICHOLSON, Secretary,  
Department of Veterans Affairs,

Defendant.

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**ORDER DENYING PLAINTIFF'S OCTOBER 30, 2007 MOTION TO AMEND**

This matter came before the court on plaintiff Eunice L. Varner's October 30, 2007 Motion to Amend Pending Complaint. Defendant filed a response November 13, 2007; and Plaintiff filed a reply November 29, 2007. Pursuant to Local Rule 7.1(e)(2), no oral argument was heard.

From the motion filed October 30, 2007, it appears that plaintiff Varner, who is representing herself in this action, seeks to add claims for tortious activity and race discrimination. However, a federal employee claiming discrimination must first exhaust his or her administrative remedies in a timely fashion. See Brown v. General Servs. Admin., 425 U.S. 820, 833 (1976). In this case Plaintiff did not file an administrative claim specifically alleging race discrimination nor were any such allegations made to give notice of such a claim. Similarly, the Federal Tort Claims Act, 28 U.S.C. §§ 1346(b), 2671 *et seq.*, also has an administrative claims process that has not been followed here. Because the court lacks subject matter jurisdiction to hear either a tort claim or a claim for race discrimination, it would be futile to grant Plaintiff's motion to amend her complaint.

**ORDER**

It is hereby **ORDERED** that Plaintiff's October 30, 2007 Motion to Amend Pleading Complaint is **DENIED**.

s/John Corbett O'Meara  
United States District Judge

Date: December 13, 2007

I hereby certify that a copy of the foregoing document was served upon the parties of record on this date, December 13, 2007, by electronic and/or ordinary mail.

s/William Barkholz  
Case Manager